



10-CV-05194-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

HAROLD JOHNSON,

Plaintiff,

vs.

TTI FLOOR CARE NORTH AMERICA
d/b/a ROYAL APPLIANCE MFG.
COMPANY, Ohio companies transacting
business in Washington,

Defendant.

NO. 3:10-cv-05194RBL

ORDER GRANTING PLAINTIFF'S
MOTION FOR REMAND

THIS MATTER is before the Court upon Plaintiff's Motion to Remand[Dkt. #9], based on Plaintiff's claim that the amount in controversy is less than the jurisdictional minimum \$75,000.00. Under *Gaus v. Miles*, 980 F.2d 564, 567 (9th Cir.1992) and numerous other authorities, the party asserting federal jurisdiction has the burden of proof on a motion to remand to state court. See also, for example, *Conrad Associates v. Hartford Accident &*

ORDER GRANTING PLNTF'S
MOTION FOR REMAND - 1

The Defendant's reliance on Plaintiff's initial settlement demand is insufficient to meet this burden, where the Complaint and subsequent statements undermine the claim that the amount in controversy is sufficient.

It is therefore **ORDERED** that, pursuant to 28 USC 1447, the Motion [Dkt. #9] is **GRANTED** this matter is hereby **REMANDED** to the Pierce County Superior Court. The Court will not award fees on this remand. The Clerk is directed to send uncertified copies of this Order to all counsel of record. The Clerk is further directed to send certified copies of this order to the Clerk of the Court for Pierce County Superior Court.

DATED this 10th day of May, 2010.


THE HONORABLE RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE